Name/Organisation: Madison Financial Group Adviser Council – on behalf of Madison FG Financial Advisers

Questions
Intended outcomes
1. Do you agree that advisers and product issuers should be able to provide to personal advice to their customers without having to comply with all of the obligations that currently apply to the provision of personal advice?
Yes – we agree that Financial Advisers (Relevant Providers) should be able to provide personal advice with amendments to the current obligations. We **do not** agree that Product issuers should be able to provide personal advice to their customers without having to comply with all of the obligations that currently apply to the provision of personal advice. Product providers (and anyone that is not a Relevant Provider) must remain limited to provide information only, not advice. Product providers (Super funds) can provide information similar to what's provided in their PDS. i.e. limited to discuss concepts and matters within their PDS. These product providers can improve their quality of education and ability to provide better quality information to their members, rather than advice. The main reasons for this are: 1. The breadth of considerations that Relevant Providers consider is the key difference – this is a result of the experience of a Relevant Provider, the in-depth information and understanding regarding a client's personal and financial position, and objectives that they are required to obtain and keep abreast of and their non-biased position. 2. The Code of Ethics and Best interest considerations ensure that client's needs are placed first – this will not happen in an advice scenario where advice is provided by Non-Relevant Providers and self-interest and product based advice will prevail. 3. Advice has moved from product focussed to "needs" focussed. Allowing Product Issuers to provide advice again will be a great detriment, as it moves 'advice' back to a product sale.

What should be regulated?

2. In your view, are the proposed changes to the definition of 'personal advice' likely to:

- **a) reduce regulatory uncertainty?**
- **b) facilitate the provision of more personal advice to consumers?**
- **c) improve the ability of financial institutions to help their clients?**

Overall – the answer will be yes.

a) We expect this will reduce regulatory uncertainty as you have a clear definition of what is classified as 'personal advice'.

b) We can see how this change in definition will facilitate the provision of MORE advice being provided to clients. However, we do not believe it will result in more QUALITY advice being provided to clients.

Specifically, for Relevant Providers a change in the obligations required to provide advice will facilitate the provision of more QUALITY advice to clients through efficiencies in processes etc in the delivery of the advice.

However, for Non-Relevant Providers; yes, more advice will be provided but the Quality will suffer resulting in detrimental client outcomes. As was the case pre the Royal Commission, due to the volume of advice that will occur again if Non - Relevant Providers (employed by Product Issuers) are able to provide personal advice, monitoring the content and quality of that advice will once again become a challenge and result in poor outcomes for clients.

c) Again, we believe the change in definition is likely to improve the ability of financial institutions to help their clients.

However, as per point (B) above, we are concerned that just because more people get help does not necessarily translate to that help being of good QUALITY. Help is only a benefit to clients if it places them in a better position.

Positives of Proposal 1:
You have a clear definition of what is classified as 'personal advice'.

That

Issues identified:

- The basis for this condition to commence is too broad… As per the wording in Proposal 1; ‘the provider of personal advice has or holds information about the client’s objectives, needs or **ANY** aspect of the client’s financial situation.’ If this is intentionally broad and meant to exclude as wide a range of institutions as possible from the provision of personal advice then this is good. However, **ANY** aspect could unintentionally capture a far wider group of people, such as Accountants, lawyers, real estate agents, Psychologists (who may be discussing issues with money) along with the expected targets of product providers. This could inadvertently reduce the value and importance of what is truly personal advice, as well as the obligations that attach to the provision of this advice.

- For part c, whilst we believe this change in definition will improve the ability of financial institutions to help their clients, we have a grave concern that short-term “help” will have unintended consequences. i.e. yes, more clients will get help but without this advice being provided by an appropriately trained and qualified person we believe this will lead to damaging financial outcomes for clients.

Alternative:

- Retain Personal Advice as only being able to be provided by Relevant Providers and we note / expect that with the simplification and removal of certain regulatory complexity as proposed in this review, then more Relevant Providers will be able to help more clients with QUALITY advice.

Real-life example:

- An example given during the Quality of Advice Review Webinar with Michelle Levy on Wednesday 07/09/2022 supported by Professional Planner magazine was that it would be expected that a 70 year old who was still in accumulation phase and rang their super fund should be able to get advice to move into Pension phase by the “customer service officer”.
    - The concerns we (as Relevant Providers) have to this is the unintended consequences of this “advise” to this “70 – year old” individual.
    - In a “Financial Advice” conversation, this client would have a discussion on a wide-range of areas such as:
        - Goals – what are they needing out of their super; is it preservation of capital; generation of income to meet expenses; protection from creditors as they might be running a business etc etc.
        - Cash-flow needs; do they even need additional income from setting up a pension. If not, then what will they do with the surplus income?
        - Centrelink and other impacts i.e. are they eligible for Centrelink support; what (if any) impact does this have on current or future payments?
        - Risk profile – who will the assessment of the appropriate risk profile be completed?
        - Capital longevity – do they have health issues; what is their expected longevity?
        - Estate planning – If they have no dependent, should they in fact cash-out of super to relieve their estate of an avoidable tax burden / re-contribution strategies.

That

  - Their superannuation and contribution position/history (and their partners) to determine if the pension should be reversionary or single life.
  - Investment options – is a "one-size fits all" option still right for them; should they stay in the current investment option; what are the pros / cons of changing options?

- In our view, the ability for product providers to give advice is akin to "AAMI" car insurance giving legal advice to a customer who was just in an accident and wants to commence legal proceedings against the other driver.

3. In relation to the proposed de-regulation of 'general advice' - are the general consumer protections (such as the prohibition against engaging in misleading or deceptive conduct) a sufficient safeguard for consumers? **a) If not, what additional safeguards do you think would be required?**
Positives: We don't believe in 'general advice'. The word **<u>advice</u>** implies **<u>personal</u>** guidance, which is classified as personal advice. So the definition of personal advice and other general consumer protections should be a sufficient safeguard for consumers. Our view, as discussed above, is to keep the Personal Advice category, but limit this to only being provided by Relevant Providers. Therefore, there is no need for any other category as it's either information (which doesn't need it's own category), or it is advice. This change is effectively moving the provision of "general information" into the same category as personal advice. The increase in the discretion that these changes allow Product Issuers and the employees to operate under will be difficult to monitor and control and the impact only become apparent at the complaint stage. **Issues identified:** would consumers have protection against poor "advice and information" provided by "finfluencers" and online video content providers? **Alternative:** ensure that anyone who provides "information" or "advice" online must provide sufficient disclaimers and contact information so consumers and regulators can chase them up, if necessary; **Real-life example:** would someone who was influenced to buy Crypto Currency have the support by regulators?

How should personal advice be regulated?

4. In your view, what impact does the replacement of the best interest obligations with the obligation to provide 'good advice' have on:

a) the quality of financial advice provided to consumers?

b) the time and cost required to produce advice?

Positives:
We believe the quality of advice from qualified Relevant Providers will not change as we already provide 'good advice', however the reduction in the complexity of how advice needs to be documented and presented to a clients will enable the advice to be more easily understood.

Depending on the new requirements as to how much time and cost it will save. Hopefully it will involve less time spent on justifying why the advice is good.
- Producing even a simple SOA takes significant time that is ultimately charged to the client.
- It will also make it possible to provide relatively straight forward advice to clients with lower balances. An example that often comes up is investment advice for the children of existing clients. It's just not worth them paying us for advice if we have to give them an SOA when they have $10k to invest.
- Saving time for advisers enables them to focus more on the quality of advice rather than doing heavy paperwork for the sake of paperwork. By reducing the compliance burden, advisers can have more time to focus on clients and better understand their needs and objectives.

Issues identified:
- We absolutely feel that there will be a complete loss of quality control for advice provided by Non-Relevant Providers, resulting in the quality of advice being provided to consumers diminishing substantially
- Without clear guidelines; there will be differing interpretations and standards of what good advice means. This means that some providers will provide cheap "advice" that they interpret as good without the same rigour that another provider provides. When this advice eventually "blows up" (and it will) then the media and consumers will again assume ALL advice is bad.
- We just hope that these changes do not undo the professionalism we have been striving to achieve.
- Without clear guidelines, the extent of the difference in required standards will depend on licensees. We expect that Relevant Providers will still be expected to follow similar requirements as we do now as 'best practice' even though not required by law. This will be driven by Licensees, PI insurers and will only resolve after years of experience through claims and the courts. This is why clear and specific guidance is needed so we all know where we stand in the eyes of the courts.

That

Alternative:

- We support the move to “good advice”, but all ADVICE can only be provided by a Relevant Provider.

Real-life example:

- There needs to be adequate training for those that believe that offering simpler advice means that you stop considering the broader impacts of the advice that they provide. For example, “advising” a client to salary sacrifice into super to save tax may be deemed “good” advice, however, did the advice provider also understand that the client was also trying to buy an investment property next year? Or did they consider if this strategy will cause them to exceed their Concessional Contribution caps because of contributions being paid into other super funds from other employers, or paid to other funds as contributions to cover premiums for super owned insurance policies they hold.

5. Does the replacement of the best interest obligations with the obligation to provide 'good advice' make it easier for advisers and institutions to:

a) provide limited advice to consumers?

b) provide advice to consumers using technological solutions (e.g. digital advice)?

a) Yes, depending on the clear guidelines provided as a result of this Review then moving to a "Good advice" obligation will make it easier to provide limited advice to consumers

b) Yes, depending on the clear guidelines provided as a result of this Review then moving to a "Good advice" obligation will make it easier to provide advice using technological solutions.

Positives:

More people get access to advice and expectedly at a lower cost

Issues identified:

- Advice should not be able to be provided by a digital solution unless that solution is "signed off" by a Relevant Provider i.e. in our view all advice must be provided by a Relevant Provider
- Technological solutions NEED to keep advice and product decision separate. Otherwise, the obvious happens that the "advice" just funnels the person into the technological solutions product.

Alternative:

- Similarly, to other professions technological solutions should remain a tool to be used by the Professional to facilitate better advice rather than specifically targeted to and be used directly by the consumer.
- If a technological solution is an answer, then it needs to be completely separate to the product decision i.e. you can use MyGov for your tax return because there is no incentive for "MyGov" to steer you towards their own product.

Real-life example:

In the accounting Profession, Xero, Myob etc. are used by consumers to input data and to better understand their business, but ultimately a Professional needs to review that data prior to lodging the tax return – Why should Financial Advice be any different?

That

6. What else (if anything) is required to better facilitate the provision of: **a) limited advice?** **b) digital advice?**
The only thing required to better facilitate the provision of limited advice and digital advice is clear rules that allow an even playing field and ensure that Relevant Providers remain the only group permitted to provide advice. **Positives:** Provides access to more information to equip more people to make more informed financial decisions. **Issues identified:** A consumer does not know what they don't know. Therefore, how do they know when they require limited or digital advice, compared to more tailored "advice"? **Alternative:** Perhaps, a "financial decision making" tool or flow chart could be used by those offering "limited advice" so that the consumer can follow the steps and make a decision themselves to decide whether they are best suited to receive "limited advice" or "information", or whether they should be referred to a "Relevant Advice" provider. **Real-life example:** Similar to the role of a GP / Doctor, the patient needs to understand their symptoms, and then have an understanding / information around their options, but in some instances they are then referred on to a specialist.

7. In your view, what impact will the proposed changes to the application of the professional standards (the requirement to be a relevant provider) have on:

a) the quality of financial advice?

b) the affordability and accessibility of financial advice?

- We believe that Quality of financial advice will suffer GREATLY if this advice no longer has to be provided by a Relevant Provider. We believe that self-interest will trump internal obligations and the appeal of making money now vs. the risk of poor advice being provided and having to pay compensation will result in Product Providers providing advice they are not qualified, trained or skilled in. This has the real potential of resulting in detrimental client outcomes similar to those that resulted in the need for the Royal Commission.

- We believe that should the requirement to be a Relevant Provider be removed then yes, advice would become more accessible and affordable BUT the reduction in quality would far outweigh the increased accessibility and lower cost.

Further we believe only Relevant Providers should be able to use the term 'financial adviser, financial planner'. We need this level of protection for consumers to differentiate – did they receive advice from a Relevant Provider who complies with the professional standards, or did they receive advice from a product provider (which also includes a digital advice solution). This will be the only way we can raise the 'profession' standards.

Issues identified:

- We don't like the idea of there being potentially "2 types of advisers" - 1 which has to pass FASEA / has to do CPD / has to be licensed & another who doesn't but can give advice on super strategies & doesn't have to disclose conflicts of interest. How can a phone based "super adviser" give a client advice to salary sacrifice to super without asking them "do you have a mortgage / is your preference to pay your home loan off or contribute to super / do you have any large capital goals coming up (car / holiday etc), so that the client doesn't lock away funds inside super that they were planning to direct to their expenditure goals. Also, the "super adviser" is conflicted in their advice as more FUA means more money to the super fund, does this need to be disclosed / does the client understand the consequences (lack of access) of contributing extra funds to super.

- We don't support the sole link between acting in the best interests being a fee vs. not paying a direct fee and not having to act in the best interests. This provision creates a real risk that Relevant Providers will continue to have to charge large fees for advice to satisfy best interest obligations compared to product providers who can charge no fees (or grouped fees) and not meet these conditions. Unfortunately, consumers "vote with their pocket" and if they see "advice" for $0 vs. "advice" for thousands of dollars they will obviously choose the $0 without understanding the consequences of their decision. Also, That note that most advisers are small business owners and we (or our associations) don't have the Millions of dollars in marketing needed to educate consumers of this difference.

Alternative:

- We support the move to "good advice", but all ADVICE can only be provided by a Relevant Provider.
- Advice would become more affordable to obtain from a Relevant Provider if the fees were tax deductible. Most strategy advice tends to relate to strategies that ultimately produce a taxable return, or a result that is taxable. Take for example advice on superannuation; even though a member's super account income is taxed and that tax is remitted to the ATO by the trustee/custodian on behalf of the member, taxable income is still produced and the member pays tax to the ATO. In addition, there are tax impacts on various withdrawal options from super and the timing and structuring of those withdrawals, tax decisions to make on insurance proceeds from TPD payments from super and tax paid in the event of the death of a member. Tax deductibility of this advice would encourage more members to get advice on available superannuation strategies and broader financial planning matters from a Relevant Provider.

8. In the absence of the professional standards, are the licensing obligations which require licensees to ensure that their representatives are adequately trained and competent to provide financial services sufficient to ensure the quality of advice provided to consumers?

a) If not, what additional requirements should apply to providers of personal advice who are not required to be relevant providers?

No, without professional standards, people who are not Relevant Providers will not be adequately trained and competent to provide financial services sufficient to ensure quality advice is provided.

Again, we believe that (like has happened in the past) self-interest will win for Product Providers and rewards will be provided for flows into products rather than for the quality of the advice. This will adversely influence the behaviours of the "customer service" person and result in bad consumer outcomes.

We reiterate that we do not believe anyone apart from Relevant Providers can give personal advice. However, as asked in this question if this proposal is to continue then the additional requirements to apply for providers of personal advice who are not required to be relevant providers are:

1. There must be ZERO connection between remuneration (of any kind) and product recommendation
2. These providers must still complete the full CPD requirements similar to Relevant Providers
3. These providers must have specific training to ensure they know their product "inside out"
4. These providers must clearly disclose the limitations of their advice and explain the risks of not receiving advice from a Relevant Provider
5. The representative must have at least 12 months experience with the CURRENT product prior to being able to give this advice.

Real-life example:
Recent examples:
Called BT Super call centre on behalf of a client – client had two Super Funds with BT. Was told by the "customer service" provider that the client could roll over one fund to the other and not lose insurance. Confirmed that 3 times with the "customer service" provider. Asked for a second opinion. "Customer service" provider returned from getting the second opinion to correct themselves that the insurance would be cancelled if rolled over. This was a direct-to-client call centre so without a Relevant Provider this information would have been provided directly to the client who would have (in good faith) acted on this information and lost their insurance.

Superannuation funds and intra-fund advice
9. Will the proposed changes to superannuation trustee obligations (including the removal of the restriction on collective charging): **a) make it easier for superannuation trustees to provide personal advice to their members?** **b) make it easier for members to access the advice they need at the time they need it?**
Positives: It will provide consumers an ability to have a discussion with someone, before making an important financial decision. **Issues identified:** Will the product provider take into consideration all aspects of the client's situation, before providing "advice"? **Alternative:** Limit a product provider to work through a "financial decision making" tool or flow chart so that the consumer can follow the steps and make a decision themselves to decide whether they are best suited to receive "limited advice" or "information", or whether they should be referred to a "Relevant Advice" Provider. **Real-life example:** Similar to the role of a GP / Doctor, the patient needs to understand their symptoms, and then have an understanding / information around their options, but in some instances they are then referred on to a specialist.

Disclosure documents

10. Do the streamlined disclosure requirements for ongoing fee arrangements:

a) reduce regulatory burden and the cost of providing advice, and if so, to what extent?

b) negatively impact consumers, and if so, how and to what extent?

a) Yes, the streamlined disclosure requirements for Ongoing Fee Arrangements (OFA) are well supported and will reduce the regulatory burden and cost of providing ongoing financial advice. We estimate a cost reduction of $200 - $350 p.a. per client.

b) We do not believe this will negatively impact consumers, as consumers will still consent to their fees being deducted on an annual basis and have the capacity to cease the relationship when they determine.

Positives:
No negative impact for clients.
Would reduce the regulatory burden and cost of providing advice through streamlined forms

Alternative:
Extending the renewal period that a client formally receives a new OSA from 1 year to each 3 years would significantly reduce costs, but not in any way remove the option for a client to leave an OSA arrangement if it was no longer appropriate or they felt they were not receiving value for money.

Real-life example:
At present, the following documents need to be prepared: FDS, Ongoing Fee consent for Adviser office, ongoing fee consent for product – just dropping to one universal fee consent would drop at least 30 minutes per client in form preparation alone.

11. Will removing the requirement to give clients a statement of advice:

a) reduce the cost of providing advice, and if so, to what extent?

b) negatively impact consumers, and if so, to what extent?

a) Yes, removing the requirement to give clients a Statement of Advice is expected to reduce the cost of providing advice in terms of the documentation that is delivered in the advice process.

The extent to which the cost will reduce is dependant on the final Quality of Advice review proposal and the interpretation of this by Licensees, PI insurers and Government bodies.

We expect that our clients would still expect some form of documentation to be provided to help them understand the high level of the advice, but this could be in an improved “executive summary” type format.

We expect that this would provide more time for Relevant Providers to focus on seeing more clients and spending time on the quality of advice to those clients rather than paperwork for the sake of paperwork.

We expect this requirement alone (if implemented properly) will solve a great deal of the accessibility and affordability concerns that this Review is trying to solve.

b) We do not believe this will negatively impact consumers as consumers are still likely to expect and receive some form of Advice Document that is more accessible and targeted to them to assist with their understanding of the advice.

Issues identified:

- The level of cost saving may by limited in that we assume we will still need to keep the same "reasonable basis" and research on file... it will just be presented to a client in a different way.
- It may adversely affect record keeping standards. Licensees may end up mandating a form of advice document in the end which means no real cost saving.

Alternative:

None required as we agree with this proposal.

That

Real-life example:

- It will also make it possible to provide relatively straight forward advice to clients with lower balances. An example that often comes up is investment advice for the children of existing clients. It's just not worth them paying us for advice if we have to give them an SOA when they have 10k to invest.

That

12. In your view, will the proposed change for giving a financial services guide: **a) reduce regulatory burden for advisers and licensees, and if so, to what extent?** **b) negatively impact consumers, and if so, to what extent?**
Overall we support Proposal 10. We believe this will result in a slight reduction to regulatory burden as we still need to produce a FSG - the only difference is the way the FSG is made available. We do not believe this will negatively impact consumers as this information is still available for them to access.

Design and distribution obligations
13. What impact are the proposed amendments to the reporting requirements under the design and distribution obligations likely to have on: **a) the design and development of financial products?** **b) target market determinations?**
Overall we support Proposal 11. **Positives:** Takes away the unnecessary task of having to lodge a nil report. We see no issues or negative impacts from this proposal.

Transition and enforcement
14. What transitional arrangements are necessary to implement these reforms?
Overall we support Proposal 12. **Positives:** Any change in regulation should have adequate transition period for all involved.

General

15. Do you have any other comments or feedback?

If you think about the Australian population in broad terms (estimates only for illustrative purposes)

- 20% are unlikely to ever need a financial adviser due to their financial situation (poverty, social security)
- 25% are never going to see a financial adviser due to their own biases (I'm smart enough to do it myself; my parents lost money so I don't trust them; I'm comfortable and don't need to get ahead)
- 15% are high net worth and get their advice from investment advisers only and private offices etc.
- 10% already see an adviser
- 10% get their information from other professionals i.e. accountants, real estate agents, friends

Therefore, there's really only an "unmet" need of 20% which equates to (roughly) 338 per adviser on the Financial Adviser Register.

The focus of this review MUST be on improving the ability for Relevant Providers to provide the advice to this relatively small portion of the population as not every Australian does need advice.

Also, there is widespread misinformation on the fall in adviser numbers from circa 26,000 to 13,000 now. It's important to note that most of those that have left the Profession were never "real" financial advisers anyway; they may have been product providers with an AR, accountants who provided limited advice, or others that were close to retirement and it was not practical update their qualifications to the current revised level of education requirements (however the consideration of an "experience pathway" as outlined in the current review of the Professional Standards of Financial Advisers Act 2017 would assist many of those advisers to continue providing advice for longer where appropriate).

The extent of the problem (in our view) has been magnified.

Focus on allowing Relevant Providers to provide more affordable and accessible advice and the problems we are all trying to be solved will be solved WITHOUT impacting the Quality or Professionalism of advice.

That